

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MOBILE HEALTHCARE FACILITIES, LLC,
Appellant,

v.

AVANTE HEALTH SOLUTIONS,
Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
CIVIL ACTION FILE NUMBER 1:21-CV-04038-SEG

**MOTION FOR LEAVE TO FILE THE CIVIL APPEAL STATEMENT,
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT, AND TRANSCRIPT ORDER FORM OUT OF
TIME**

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Counsel for Appellant

**MOTION FOR LEAVE TO FILE THE CIVIL APPEAL STATEMENT,
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT, AND TRANSCRIPT ORDER FORM OUT OF
TIME**

Appellant Mobile Healthcare Facilities, LLC (“Appellant”) respectfully move the Eleventh Circuit to Allow Appellant to file the Civil Appeal Statement, Certificate of Interested Persons and Corporate Disclosure Statement (“CIP”), and Transcript Order Form out of time.

Pursuant to 11th Cir. R. 46-5, “[e]very attorney, except one appointed by the court for a specific case, must file an Appearance of Counsel Form in order to participate in a case before the court.” Due to an oversight, Appellant’s counsel inadvertently failed to file the Appearance of Counsel Form prior to filing its Transcript Order Form [Doc. 2], CIP [Doc. 3], and Civil Appeal Statement [Doc. 4]. Permitting this late filing will not delay the resolution of this appeal and will not prejudice the Appellees. Appellant has since filed its Appearance of Counsel.

For these reasons, Appellant respectfully move the Court of Appeals to grant this Motion and allow for the filing of the aforementioned documents out of time. Appellant has attached a copy of the Civil Appeal Statement, CIP, and Transcript Order Form as an Exhibit to this Motion.

This 16th day of July, 2024.

FREEMAN MATHIS & GARY, LLP

/s/ Brian S. Goldberg

Brian S. Goldberg

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*Counsel for Appellant Mobile Healthcare
Facilities, LLC*

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CERTIFICATE OF COMPLIANCE

I hereby certify that this filing complies with Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6) because it was prepared in 14-point Times New Roman font. See Fed. R. App. R. 27(d)(1)(E); 11th Cir. R. 27-1(a)(10).

Respectfully submitted, this 16th day of July, 2024.

FREEMAN MATHIS & GARY, LLP

/s/ Brian S. Goldberg
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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically submitted the foregoing
**MOTION FOR LEAVE TO FILE THE CIVIL APPEAL STATEMENT,
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT, AND TRANSCRIPT ORDER FORM OUT OF
TIME** to the Clerk of Court using the CM/ECF system which will automatically send
electronic mail notification of such filing to counsel of record who are CM/ECF
participants. Counsel of record is:

Sarah Trevino
Direct: 404-348-8585
Dentons US, LLP
303 PEACHTREE ST NE STE 5300
ATLANTA, GA 30308

Shannon Y. Shin
Dentons US, LLP
233 S WACKER DR STE 5900
CHICAGO, IL 60606

Respectfully submitted, this 16th day of July, 2024.

FREEMAN MATHIS & GARY, LLP

/s/ Brian S. Goldberg
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EXHIBIT A

CIVIL APPEAL STATEMENT

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
CIVIL APPEAL STATEMENT

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 24-11939

Caption: Mobile Healthcare Facilities, LLC, Plaintiff-Appellant V. Avante Health Solutions, Defendant-Appellee.	District and Division: Northern District, Atlanta Division Name of Judge: Judge Sarah E. Geraghty Nature of Suit: Breach of Contract <hr/> Date Complaint Filed: 9/2/2021 (date of removal from Superior Court of Cobb County) District Court Docket Number: 1:21-CV-04038-SEG <hr/> Date Notice of Appeal Filed: June 10, 2024 Cross Appeal Class Action <hr/> Has this matter previously been before this court? Yes No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
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	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: Plaintiff Defendant Other (Specify)	Brian S. Goldberg	Freeman Mathis & Gary LLP 100 Galleria Parkway Suite 1600 Atlanta, GA 30339	T: (770) 818-0000 F: (833) 330-3669 brian.goldberg@fmglaw.com
For Appellee: Plaintiff Defendant Other (Specify)	Shannon Y. Shin	Dentons US LLP 233 S. Wacker Drive Chicago, IL 60606	Tel: (312) 876-8000 Fax: 312 876 7934 shannon.shin@dentons.com

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
Federal Question	Final Judgment, 28 USC 1291	Dismissal/Jurisdiction	Amount Sought by Plaintiff: \$ _____
Diversity	Interlocutory Order, 28 USC 1292(a)(1)	Default Judgment	Amount Sought by Defendant: \$ ^{n/a} _____
US Plaintiff	Interlocutory Order Certified, 28 USC 1292(b)	Summary Judgment	Awarded: \$ _____ to _____
US Defendant	Interlocutory Order, Qualified Immunity	Judgment/Bench Trial	Injunctions: TRO Preliminary Granted Permanent Denied
	Final Agency Action (Review)	Judgment/Jury Verdict	
	54(b)	Judgment/Directed Verdict/NOV	
		Injunction	
		Other _____	

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? Yes No
What is the issue you claim is one of First Impression? _____

- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? Yes No

If Yes, provide

- (a) Case Name/Statute _____
(b) Citation _____
(c) Docket Number if unreported _____

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that

- (a) Arises from substantially the same case or controversy as this appeal? Yes No
(b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? Yes No

If Yes, provide

- (a) Case Name _____
(b) Citation _____
(c) Docket Number if unreported _____
(d) Court or Agency _____

- (4) Will this appeal involve a conflict of law

- (a) Within the Eleventh Circuit? Yes No
(b) Among circuits? Yes No

If Yes, explain briefly:

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

The District Court Erred in granting summary judgment to Defendant-Appellee on Plaintiff-Appellant's claims for breach of contract and fraud and in denying Plaintiff-Appellant's motion to amend its complaint

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 25th DAY OF June, 2024.

Brian S. Goldberg, counsel for Plaintiff-Appellant

NAME OF COUNSEL (Print)



SIGNATURE OF COUNSEL

EXHIBIT B

**CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT**

COURT OF APPEALS DOCKET NO. 24-11939

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

MOBILE HEALTHCARE FACILITIES, LLC,

Appellant,

v.

AVANTE HEALTH SOLUTIONS,

Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
CIVIL ACTION FILE NUMBER 1:21-CV-04038-SEG**

**APPELLANT'S CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

SUBMITTED BY:

**Brian S. Goldberg
FREEMAN MATHIS & GARY, LLP
100 Galleria Parkway, Suite 1600
Atlanta, Georgia 30339
(404) 366-1000**

Attorneys for Appellant

In compliance with Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, counsel for Appellee shows that the following trial judge(s), attorneys, persons, associations of persons, firms, partnerships, and corporations have an interest in the outcome of this appeal:

1. Kyle D. Affeldt (Member-Manager of Plaintiff-Appellant Mobile Healthcare Facilities, LLC (“MHF”))
2. Marlin Anderson (Member-Manager of Plaintiff-Appellant MHF)
3. Freeman Mathis & Gary, LLP (Attorneys for Plaintiff-Appellant MHF)
4. Brian S. Goldberg (Attorney for Plaintiff-Appellant MHF)
5. Leo Kogan (Attorney for Plaintiff-Appellant MHF)
6. Alan C. Manheim (Attorney for Plaintiff-Appellant MHF)
7. Dentons US, LLP (Attorneys for Defendant-Appellee Avante Health Solutions (“Avante”))
8. Shannon Y. Shin (Attorney for Defendant-Appellee Avante)
9. Sarah E. Trevino (Attorney for Defendant-Appellee Avante)
10. Sarah Hanna Phillips (Attorney for Defendant-Appellee Avante)
11. Shannon Y. Shin (Attorney for Defendant-Appellee Avante)
12. Polsinelli PC (Attorneys for Defendant-Appellee Avante)
13. Christopher Ward (Attorney for Defendant-Appellee Avante)
14. James Martin (Attorney for Defendant-Appellee Avante)
15. The Honorable Sarah E. Geraghty (United States District Judge for the Northern District of Georgia)

Respectfully Submitted,

FREEMAN MATHIS & GARY, LLP

/s/ Brian S. Goldberg

Brian S. Goldberg

brian.goldberg@fmglaw.com

Georgia Bar No. 128007

Attorneys for Plaintiff-Appellant

Mobile Healthcare Solutions, LLC

100 Galleria Parkway
Suite 1600
Atlanta, Georgia 30339-5948
T: (770) 818-0000
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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically submitted the foregoing **APPELLANT'S CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT** to the Clerk of Court using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record who are CM/ECF participants and via email to the following counsel of record:

Sarah E. Trevino
sarah.trevino@dentons.com
Sarah Hannah Phillips
sarahhannah.phillips@dentons.com
DENTONS US LLP
303 Peachtree St NE Suite 5300
Atlanta, GA 30308

Shannon Y. Shin
shannon.shin@dentons.com
DENTONS US LLP
233 S. Wacker Drive,
Suite 5900
Chicago, IL 60606

This 25th day of June, 2024.

/s/ Brian S. Goldberg

Brian S. Goldberg
brian.goldberg@fmglaw.com
Georgia Bar No. 128007

*Attorneys for Plaintiff-Appellant
Mobile Healthcare Solutions, LLC*

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EXHIBIT “C”

TRANSCRIPT ORDER FORM

ELEVENTH CIRCUIT TRANSCRIPT ORDER FORM
Provide all required information and check the appropriate box(es)

PART I. Transcript Information

*Within 14 days of the filing of the notice of appeal, the appellant **must** complete Part I and file this form in **two places**: the District Court **AND** the Court of Appeals for all cases. 11th Cir. R. 10-1.*

Case Information:

Short Case Style: Mobile Healthcare Facilities vs Avante Health Solutions
District Court No.: 1:21-cv-04038-SEG Date Notice of Appeal Filed: June 10, 2024
Court of Appeals No. (if available): 24-11939

Transcript Order Information:

☐ No hearing ☐ No transcript is required for appeal purposes ☐ All necessary transcript(s) already on file
☒ I am ordering a transcript of the following proceedings:

HEARING DATE(S) / JUDGE/MAGISTRATE / COURT REPORTER NAME(S)

☐ Pre-Trial Proceedings Summary Judgment Hearing
☐ Trial _____
☐ Sentence _____
☐ Plea _____
☐ Other _____

Criminal Appeals:

In a criminal appeal, if the appellant pleaded guilty and intends to raise an issue regarding the guilty plea, the record must include a transcript of the guilty plea colloquy, and if the appellant intends to raise an issue regarding the sentence, the record must include a transcript of the sentencing hearing. ***If such transcripts are not ordered, you must check the appropriate box(es) below:***

Transcript of Guilty Plea Colloquy

☐ A transcript of the guilty plea colloquy is already on file.
☐ A transcript of a guilty plea colloquy is not being ordered and is not already on file, and I certify that no issue regarding a guilty plea will be raised in a merits brief in this appeal.

Transcript of Sentencing Hearing

☐ A transcript of the sentencing hearing is already on file.
☐ A transcript of the sentencing hearing is not being ordered and is not already on file, and I certify that no issue regarding sentencing will be raised in a merits brief in this appeal.

Note: Counsel who seek leave to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967), must ensure the record contains transcripts of all relevant proceedings. See 11th Cir. R. 27-1(a)(8).

Financial Arrangements:

☒ I certify that I have made satisfactory arrangements with the Court Reporter(s) for paying the cost of the transcript(s).


☐ Criminal Justice Act: My completed AUTH-24 for government payment of transcripts has been uploaded in eVoucher and is ready for submission to the magistrate judge or district judge [if appointed by the district court] or to the circuit judge [if ordered by or appointed by the circuit court].

Ordering Counsel/Party: Brian S. Goldberg, counsel for Plaintiff

Address: _____

E-mail: _____ Phone No.: _____

☒ **I certify that I have completed and filed Part I with the District Court AND the Court of Appeals, served all parties, AND sent a copy to the appropriate Court Reporter(s) if ordering a transcript. 11th Cir. R. 10-1.**

Date: 6/25/2024 Signature: 

Attorney for: Plaintiff Mobile Healthcare Facilities

PART II. Court Reporter Acknowledgment

*Within 14 days of receipt, the Court Reporter **must** complete this section, file this form with the District Court, AND send a copy of this form to the Court of Appeals and all parties. The transcript must be filed within 30 days of the date satisfactory arrangements for paying the cost of the transcript were made unless the Court Reporter obtains an extension of time to file the transcript.*

Date Transcript Order received: _____

☐ Satisfactory arrangements for paying the cost of the transcript were made on: _____

☐ Satisfactory arrangements for paying the cost of the transcript have not been made.

No. of hearing days: _____

Estimated no. of transcript pages: _____

Estimated filing date: _____

☐ **I certify that I have completed and filed Part II with the District Court AND sent a copy of this form to the Court of Appeals and all parties.**

Date: _____ Signature: _____ Phone No.: _____

PART III. Notification That Transcript Has Been Filed In District Court

*On the date the transcript is filed in the district court, the Court Reporter **must** complete this section, file this form with the District Court, AND send a copy of this form to the Court of Appeals.*

☐ **I certify that the transcript has been completed and filed with the district court on (date): _____ AND that I have sent a copy of this form to the Court of Appeals.**

Date: _____ Signature: _____